Senate Budget & Fiscal Review

Senator Wesley Chesbro, Chair

Subcommittee No. 3
on
Health, Human Services, Labor, & Veterans Affairs

Senator Wesley Chesbro, Chair
Senator Gilbert Cedillo
Senator Tom McClintock
Senator Bruce McPherson
Senator Deborah Ortiz

May 23rd , 2003 (Friday)

9:00 AM

Room 4203

MAY REVISION & OPEN ISSUES

Item	*Description*
4260	**Department of Health Services**
4300	**Department of Developmental Services**

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I. ITEMS RECOMMENDED FOR VOTE ONLY *(Shown by Department)*

A. Department of Developmental Services *(Vote Only)*

1. Extension of Service Contract

Background and Subcommittee Staff Recommendation: SB 391 (Solis), the Omnibus health trailer bill to the Budget Act of 1997 established the Client's Rights Advocacy process for individuals with developmental disabilities. Section 4433, of W & I Code says that DDS may contract for client's rights advocacy services for up to three years. Since this time, there has been two contract cycles and only one contractor has ever applied for the contract.

Discussions with the Administration and advocacy groups has indicated that extension of this contract to five years would better serve the purposes of the contract. Therefore, it is recommended to amend Section 4433 to allow for up to five years for the contract.

Budget Issue: Does the Subcommittee **want to adopt the proposed trailer bill language change (from three years to up to five years) ?**

2. The Administration's Eligibility Definition

Background: To be eligible for Regional Center services, the disability must begin before the consumer's 18th birthday, be expected to continue indefinitely, present a significant disability and be attributable to certain medical conditions, such as mental retardation, autism, and cerebral palsy.

Governor's January Budget: The budget **proposes savings of $2.1 million (General Fund) through legislation which would apply the federal standard for "substantial disability" to existing state eligibility criteria. The federal standard for substantial disability requires the clinical determination of significant limitations in three or more of the seven major life activities.**

These **major life activities would address clinical capacity in the areas of communication, learning, mobility, self-care, self-direction, economic self sufficiency, and independent living.** The Administration states that **the new standard would be applied prospectively so that those currently receiving services will not be affected.**

Based on existing consumer characteristics (data from the Client Developmental Evaluation Report—CDER), the DDS estimates that about 400 persons per year would *not* be eligible for Regional Center services. These estimated 400 persons would generally be school age children or young adults with mild mental retardation, or another disability, without severe medical or behavioral needs.

The DDS further states that the clinical judgement of the Regional Centers in applying the proposed new standard for substantial disability would be the key determining factor.

The Subcommittee discussed this issue in its April 7th hearing.

<u>Governor's May Revision:</u> His May Revision assumes this adoption for the same level of savings.

<u>Subcommittee Staff Recommendation:</u> The proposed trailer bill language seems reasonable. It will still be up to the **clinical judgement of the Regional Centers to apply the proposed standard and it is consist with federal law.**

<u>Budget Issue:</u> Does the Subcommittee **want to adopt the Administration's proposed savings and trailer bill language regarding eligibility?**

<u>3. Modification to Self Determination Pilot Projects</u>

<u>Background:</u> SB 1038 (Thompson), Statutes of 1998, established three self-determination pilot projects (Redwood Coast, Tri-Counties), and East L.A.). Two additional pilot projects have been added since this time (Kern, and San Diego). The pilot projects are a collaborative effort between each regional center (RC) and Area Board.

Self-determination is based on the principals of freedom (to choose services and supports), authority (to control a sum of money), responsibility (to spend money wisely), and support (to make good decisions). According to DDS, it is an approach to service delivery that has garnered national, international and bi-partisan support.

Current participants in the Self-determination pilot projects are not Home and Community-Based Waiver participants. However, the department is currently preparing to apply for a federal 1115 Demonstration Waiver which could expand federal funding participation.

Legislation authorizing the self-determination pilot projects **sunsets as of January 1, 2004.**

<u>Governor's May Revision (See Hand Out):</u> The Administration is proposing trailer bill language to modify Section 4685.5 of W&I Code to **<u>(1)</u>** allow for the continuation of five existing projects, **<u>(2)</u>** allow for the expansion of pilot projects to other Regional Centers with federal approval of a Self Determination Waiver, ***and*** **<u>(3)</u>** extend the sunset until January 1, 2005..

<u>Subcommittee Staff Recommendation:</u> It is recommended to modify the proposed trailer bill language to allow for **additional expansion of self-determination pilots when such expansion is cost effective.** For example, the department recently approved an expansion of the Redwood

Coast Regional Center pilot to include individuals who choose to participate at a reduce individual purchase-of-services budget.

The proposed amendment is as follows:

> (c) The department shall ~~allocated funds for pilot programs in three~~ allow the continuation of the existing pilot project in five regional center catchment areas and shall~~, to the extent possible, test a variety of mechanisms outlined in subdivision (b)~~ expand the pilot project to other regional center catchment areas consistent with federal approval of a self-determination waiver **or when a regional center submits, and the department approves, a plan to offer self-determination to consumers that meets criteria established by the department, including but not limited to, cost-effectiveness.**

Budget Issue: Does the Subcommittee **want to adopt the Administration's language with the proposed amendment as noted above?**

4. Delete Governor's Medi-Cal Optional Benefits Proposal--*Conforms*

Governor's May Revision: The May Revision continues the Governor's proposal to eliminate certain Medi-Cal Optional Benefits, effective October 1, 2003.

Children, services to ensure the health of pregnant women, individuals residing in nursing homes, and family planning services and dental services that could be provided by a physician, whether provided by a physician or a dentist, are all protected from this proposed elimination.

However, individuals with developmental disabilities would not be exempt from the Administration's proposal. As such, Regional Centers would need to purchase these benefits for individuals with developmental disabilities at 100 percent General Fund expenditure, in lieu of obtaining partial matching federal funds. **The Department of Developmental Services budget for May Revision reflects an increase of $47.2 million General Fund for this purpose.**

Subcommittee Recommendation: In yesterday's hearing, **the Subcommittee rejected the proposal to eliminate Medi-Cal Optional Benefits.** As such, these valuable services will continue to be provided to all Medi-Cal eligible individuals. **Therefore, the Regional Center budget can be reduced by $47.7 million (General Fund) to reflect the fact that Optional Benefits will be provided under the Department of Health Services budget.**

Budget Issue: Does the Subcommittee **want to reflect the restoration of providing Medi-Cal Optional Benefits under the Medi-Cal Program funded under the DHS, and therefore, delete the $47.7 million (General Fund) in unnecessary funding?**

5. Administration's Parental Co-Pay Proposal --*Reject*

Governor's May Revision: The May Revision continues the Governor's January proposal to implement a Parental Copay Assessment through trailer bill legislation. **The May Revision has moved the date back to assume a January 1, 2004 start (versus the previous July 1 date) and has therefore, reduced the savings level to be about $14.7 million (General Fund) (or about half).**

The May Revision generally continues the same concepts of the Governor's January proposal. Basically, the program **would require parental financial participation for certain children who live at home and receive services from Regional Centers**. Based on recent caseload data, **up to 65,000 children** (aged 3 to 17 years) could be affected by the copay proposal.

In addition, the budget also assumes an increase of almost $1.8 million to fund 24 new positions at the DDS to administer the Parental Copay Assessment.

Prior Subcommittee Hearing: In the April 7th Subcommittee hearing, the Subcommittee took extensive public comment about the proposal.

Subcommittee Staff Recommendation: The Administration's proposal has considerable flaws and is still not well developed. It did not take into consideration several key factors, including family income and size, privacy issues, access to services concerns, as well as administrative hurdles—which are considerable. **Therefore it is recommended for the Subcommittee to reject the May Revision and backfill for General Fund support accordingly.**

Budget Issue: Does the Subcommittee **want to reject the Administration's Parental Copay Assessment proposal?**

6. Health Insurance Portability and Accountability Act (HIPAA)--Technical

Governor's May Revision: The May Revision is requesting a technical adjustment to increase by $41,000 (General Fund) and decrease Reimbursements accordingly to accurately reflect the funding split associated with the Health Insurance Portability and Accountability privacy officer positions within state support.

Subcommittee Staff Recommendation: It is recommended to adopt this proposal.

Budget Issue: Does the Subcommittee **want to adopt the proposal?**

7. Delayed Habilitation Services Program Transfer

Governor's May Revision Conforming to SB 24 (X): The May Revision conforms to SB 24 (X) by delaying the Habilitation Services Program transfer until July 1, 2004. In addition, the May Revision is deleting the 18 positions associated with this transfer for savings of $671,000 (General Fund) and corresponding Reimbursements. Further, it is removing the local assistance expenditure related to this transfer (also as referenced in the baseline estimate package discussion below, under the Day Programs item). **In essence, the program remains within the purview of the Department of Rehabilitation for 2003-04.**

Subcommittee Staff Recommendation: It is recommended to adopt the May Revision.

Budget Issue: Does the Subcommittee **want to adopt the May Revision?**

8. Reappropriation Authority for Bay Area Project

Governor's May Revision: The May Revision proposes to **reappropriate up to $5 million (General Fund) for the Bay Area Project** related to the closure of Agnews Developmental Center. The funds will be used to transition the consumers living at Agnews to new surroundings.

The proposed amended language is as follows:

- 4300-490—Reappropriation, Department of Developmental Services. Notwithstanding any other provision of law, as of June 30, 2003, the balances of the appropriations provided in the following citations are reappropriated for the purposes specified and shall be available for expenditure until June 30, 2004, unless otherwise stated.

- 0001-General Fund

  (1) Item 4300-101-0001 (1) 10.10.010 and (2) 10.10.020, Budget Act of 2002 (Ch. 379, Stats. 2002) for the Life Quality Assessment Interagency Agreement.

  (2) Up to $5,000,000 appropriated for the Developmental Centers Program in Item 4300-003-0001 (1) 20-Developmental Centers Program, Budget Act of 2002 (Ch. 379, Stats. 2002), shall be reappropriated for the Bay Area Project.

Subcommittee Staff Recommendation: It is recommended to adopt the May Revision.

Budget Issue: Does the Subcommittee **want to adopt the May Revision?**

9. Additional Special Investigator Resources at the DCs

Governor's January Budget: The DDS is requesting **an increase of $406,000 ($237,000 General Fund) to support 5 new state positions** at the Developmental Centers to complete investigations of crimes committed on the DC premises, including theft, fraud, workplace violence and employee misconduct, as well as to conduct certain investigations regarding allegations of mistreatment or abuse of consumers living at the DCs.

Subcommittee Staff Recmmendation: Consumer safety and protection is critical in not only supporting and improving an individual's quality of life, but also to maintain licensing and certification. However, adding additional Special Investigator staff does not necessarily equate to these outcomes.

The DCs already employ considerable public safety staff. In fact, there already are about 189 related positions, including a Sacramento Headquarters staff of 11. The 189 staff include investigators, protective services, police officers and firefighters, and office technician support. The population at the DCs is continuing to decline, with the closure of Agnews DC in 2005. Given the existing fiscal constraints, the availability of licensing and certification staff investigations from the DHS, the existing complement of public safety DC staff, it is suggested to defer the hiring of new staff.

Budget Issue: Does the Subcommittee **want to deny the five positions for savings of $406,000 ($237,000 General Fund).**

10. Developmental Center Adjustments—Conforming Action for Optional Benefits

Governor's May Revision: The May Revision continues the Governor's proposal to eliminate certain Medi-Cal Optional Benefits, effective October 1, 2003. Children, services to ensure the health of pregnant women, individuals residing in nursing homes, and family planning services and dental services that could be provided by a physician, whether provided by a physician or a dentist, are all protected from this proposed elimination.

However, individuals with developmental disabilities would not be exempt from the Administration's proposal. As such, Developmental Centers would need to purchase these benefits for individuals with developmental disabilities at 100 percent General Fund expenditure, in lieu of obtaining partial matching federal funds. **The Department of Developmental Services budget for May Revision reflects an increase of $7.2 million General Fund for this purpose.**

Subcommittee Recommendation: In yesterday's hearing, **the Subcommittee rejected the proposal to eliminate Medi-Cal Optional Benefits.** As such, these valuable services will continue to be provided to all Medi-Cal eligible individuals. **Therefore, the Developmental Center budget can be reduced by $7.2 million (General Fund) to reflect the fact that Optional Benefits will be provided under the Department of Health Services budget.**

Budget Issue: Does the Subcommittee **want to reflect the restoration of providing Medi-Cal Optional Benefits under the Medi-Cal Program funded under the DHS, and therefore, delete the $7.2 million (General Fund) in unnecessary funding?**

11. Developmental Center Adjustments—All Other Adjustments

Governor's May Revision: The May Revision reflects other adjustments at the Developmental Centers which reflect a decrease in population and adjustments for staffing including the following key items:

- Reduction of $5.7 million ($3.7 million) and 77 positions to reflect reduced staffing needs due to a decline in the DC population.
- Increase of $29.7 million ($17.4 million General Fund) to reflect the impact of the proposed Intermediate Care Facilities-Developmentally Disabled Quality Assurance Fee on DCs because they will not receive the same rate increase provided to private facilities to offset the cost of the fee.
- Reduction of $10.4 million General Fund and an increase of federal funds to reflect a Medi-Cal base funding adjustment.
- Increase of $323,000 ($206,000 General Fund) and 5 positions to reflect additional resources to complete due process hearings for residents of the DCs.

Subcommittee Staff Recommendation: It is recommended to adopt these technical and caseload related adjustments for the DCs. No issues have been raised.

Budget Issue: Does the **Subcommittee want to adopt these technical adjustments?**

II. ITEMS FOR DISCUSSION (Shown by Department)

A. Department of Health Services

1. Medi-Cal Program—Current Year Deficiency *(2002-03)--Informational*

Background—Medi-Cal Serves Many Purposes: Medi-Cal is a health insurance program that provides medical benefits to low-income individuals who have no medical insurance or inadequate medical insurance. **It is at least three programs in one: (1) A source of traditional health insurance coverage for poor children and some of their parents, (2) A payer for a complex set of acute and long-term care services for the frail elderly and people with developmental disabilities and mental illness; and (3) a wrap-around coverage for low-income Medicare recipients.**

Presently about 6.5 million people, or one in five Californians, are eligible for Medi-Cal in any given month. **According to the DOF, Medi-Cal provides health insurance coverage to 17.3 percent of all Californians.**

Generally, Medi-Cal eligibles fall into four broad categories of people: (1) aged, blind or disabled; (2) families with children; (3) children only; and (4) pregnant women. Men and women who are not elderly and do not have children or a disability *cannot* qualify for Medi-Cal, no matter how low-income they are.

Medi-Cal eligibility is based upon family relationship, family income level, asset limits, age, citizenship and California residency status. Other eligibility factors can include medical condition (such as pregnancy or medical emergency), share-of-cost payments (i.e., spending down to eligibility), and related factors that are germane to a particular eligibility category.

Medi-Cal is a Complex Program to Estimate: **There is considerable uncertainty associated with projecting Medi-Cal expenditures, which vary according to (1)** the number of persons eligible, **(2)** the number and type of services these individuals receive, and **(3)** the cost of providing these services. Additional uncertainty is created by monthly fluctuations in claims processing, federal audit exceptions, and uncertainties in the implementation date for policy changes which can require federal waivers and changes in regulations.

The DHS states that expenditures may vary normally by four percent from the mid-range projection. The Medi-Cal Estimate includes eight months of current year data; therefore, the DHS notes that a 1.3 percent variation is assumed for the current year and 4 percent for the budget year.

Summary of Current Year Deficiency: Pursuant to Section 13332.04 (a) of the Government Code, the Legislature has received notice through the May Revision Medi-Cal Estimate for local assistance that the 2002-03 (current-year) has a deficiency of $1,043,800,000 (General Fund). **This deficiency can be summarized into *key components* as shown in the table below.**

Component	General Fund Amount (in millions)
Legislative Adjustments	$195.2 million
Delayed Budget/Hiring	$141.7 million
Rate Increases	$117.3 million
Lawsuits and Audits	$112.9 million
Caseload	$110.1 million
Users-Cost/Units per User	$295.4 million
County Administration	$44.2 million
All Other--various	$27 million
TOTAL	**$1,043.8 million**

Legislative Adjustments: These are adjustments that were assumed by the Legislature in the Budget Act that either did not fully materialize or were not fully funded in the Budget Act . **These include the following:**

- $100 million in additional Medi-Cal anti-fraud savings which did not materialize;
- $71 million for Provider Rates which were not reduced per statutory change.
- $23 million in Medi-Cal Caseload adjustments to reflect LAO recommendation;
- $1.1 million in PACE program expansion which was intended to save long-term care costs;

Delayed Budget/Hiring: The DHS states that these two factors delayed the implementation of program savings that were identified in the budget. **These include the following:**

- $105.8 million in drug budget reduction;
- $17.4 million for medical supply reductions
- $9 million for Medical Case Management
- $6.6 million for durable medical equipment and laboratory contracting
- $1.7 million for the dental services reduction
- $1.2 million for the pharmacy dispensing fee adjustment

Rate Increases: These are provider rate increases that occur based on existing statutes, settlement agreements, or federal law. **These include the following:**

- $55 million for 2001-02 Inpatient Rate increases
- $50.2 million for 2002-03 Inpatient Rate increases
- $5.3 million annual federal Medicare Economic Index for Federally Qualified Healthcare Centers
- $3.1 million 2002-03 long-term care increase
- $3.7 million Medicare HMO Premiums

Lawsuits and Audit Exceptions: No explanation needed here. **These are as follows**.

- $92.7 million Craig v. Director Bonta'
- $8.5 million Audit Settlements
- $7.5 million for Child Health Disability Prevention adjustments
- $4.2 million Children's Hospital, et al v. Director Bonta'

Caseload: These are caseload adjustments to programmatic areas as noted.

- $79.6 million for unanticipated caseload growth
- $15.7 million Buy-In
- $14.8 million for the Family PACT Program

Utilization Costs (Users-Costs and/or Units per User): This area pertains to the use of services, as well as increased costs per user. **These are as follows:**

- $76 million for users not related to eligible growth
- $75 million for mental health services, primarily services to children
- $55 million enrollment of children in Managed Care on an annual basis
- $45.5 million for the increase in units per User
- $23 million increased costs per unit
- $10.9 million for prenatal care for specified women
- $8.9 million for Adult Day Health Care

Subcommittee Request and Questions: The Subcommittee **has requested the DHS to respond to the following questions:**

- **1.** Please briefly **describe the accuracy of the estimating model** used for Medi-Cal.
- **2.** Please **briefly step through the <u>key</u> components** of the Medi-Cal Program deficiency.
- **3. Will the state be able to reimburse providers for services rendered if an increase in the current year appropriation is not made? Are there any timing considerations**?
- **4. How cost-beneficial is California's Medi-Cal Program overall** (cost per recipient)?
- **5.** Are there any other relevant factors regarding the current-year deficiency that the DHS would like to note?

Budget Issue: No Subcommittee action is required.

2. Medi-Cal Fraud Proposal—*Governor's May Revision (See Hand Outs)*

Background—How much Fraud is There?: In testimony recently presented to the Senate Select Committee on Governmental Oversight, chaired by Senator Speier, **the DHS noted that there are no accurate estimates using California specific data to calculate the level of fraud. However, the DHS contends that various Medi-Cal anti-fraud efforts have earned the state over $1 billion in savings and cost avoidance over the past four years.**

Summary of Key Anti-Fraud Legislative Initiatives: Considerable policy changes have occurred over the past several years in order to mitigate fraud. **In fact the DHS has noted in recent public testimony that California now has some of the strongest anti-fraud laws in the nation.**

Legislation has included the following:

- **SB 708 (Senate Budget & Fiscal Review Committee)** established the Medi-Cal Fraud Prevention Bureau and appropriated funds for this purpose.
- **AB 1107, Statutes of 1999 (Cedillo)** brought two federal sanctions into state law: withhold and temporary suspension. It also enhanced Medi-Cal Program integrity by expanding the definition of provider in state statutes to include all entities directly or indirectly involved in providing Medi-Cal services. It clarified the definition of fraud and abuse, and specified new requirements to tighten the provider enrollment process, including new application procedures, signed provider agreements, and provider disclosure statements.
- **AB 784, Statutes of 1999 (Romero)**, among other things, gave authority for auditors to look at records of suppliers, and allowed for the assessment of financial penalties in certain circumstances.
- **AB 1098, Statutes of 2000 (Romero)** expanded the definition of a crime from any person who knowingly intends to commit fraud to any person who engages in activities related to defrauding or submitting false information to the Medi-Cal Program. **It also (1)** increases the licensure requirements for laboratories, and specifies certain activities as crimes if they endanger public safety; **(2)** defines a list of crimes that could potentially be committed by Medi-Cal providers, such as criminal profiteering activity; **(3)** requires providers to identify their billing agents and billing agents to register with the DHS; (4) does not allow enrollments of applicants that have been convicted of any felony or misdemeanor involving fraud or abuse in any government program and not allowing an applicant to reapply for three years if their application was denied.
- **SB 1699), Statutes of 2002 (Ortiz)** gave the DHS the authority to suspend providers from all programs administered by the DHS if the provider is suspended or under investigation in any DHS program and to deny enrollment if they are under investigation in any program.

Background—Current Anti-Fraud Efforts with Existing Positions: According to the DHS, they **presently provide $20.4 million ($8.1 million General Fund) to support 264.2 positions in the DHS that prevent, identify, and investigate fraud. The DHS staff is divided up between 10 offices and divisions within the department. The staff are located as follows:**

- Payment Systems Division — 79 staff
- Audits & Investigations Division — 75 staff
- Office of Legal Services — 29 staff
- Medi-Cal Fraud Prevention Bureau — 26 staff
- Managed Care Division — 20 staff
- Administration Division — 10.2 staff
- Laboratory Field Services — 10 staff
- Medi-Cal Policy Division — 9 staff
- Primary Care and Family Health — 3 staff
- Information Technology Services — 3 staff
- **TOTAL — 264.2 staff (existing)**

These positions are estimated to result in savings of $179.9 million ($90 million General Fund) in the budget year. The May Revision **also includes $624.7 million** ($312.4 million General Fund) in budget year savings due to anti-fraud efforts carried out in 2000-01 through 2002-03.

In addition to these staff, the DHS also includes **the EDS contract funding for nine staff** in the EDS Provider Review Unit. **EDS also has an incentive clause in its contract which provides that EDS receives 10 percent of the programs savings its staff generates.**

DHS also contracts with Delta Dental, which under DHS direction, process the Medi-Cal dental claims and prior authorizations and **has a staff of 46 in their Surveillance and Utilization Review Unit.**

Lastly, DHS also contracts with the MEDSTAT Group, which has developed a database of all the Medi-Cal claims culling from the various sources that pay Medi-Cal claims such as EDS, county mental health, and Child Health Disability Prevention. The MEDSTAT Group is also contracted to use this database to conduct checks on the existing claims systems and to look for overpayments to providers likely due to fraud and abuse.

Governor's May Revision: The DHS is requesting **an increase of $27,000,000 ($16,300,000 General Fund) to fund 315.0 new positions (236.3 personnel years) to expand existing Medi-Cal anti-fraud activities and implement new anti-fraud strategies.** ***(Please see table below that displays the full complement.)***

It should be noted that the state operations request **assumes a salary savings rate of 25 percent and a 25 percent reduction in operating expenses due to the length of time needed to hire new staff and the potential time needed to transition to the SROA hiring process in the budget year**. ***Costs for these positions in 2004-05 would need to be increased to reflect the actual salary savings rate and the standard OE&E costs.***

DHS estimates that this proposal would reduce Medi-Cal expenditures by $47,063,000 ($23,019,000 General Fund) in the budget year and $222,890,000 ($109,464,000 General Fund) in 2004-05. Fully annualized savings (yet to be determined) would be realized in 2005-06.

Summary of the DHS Positions

DHS Organizational Unit	Existing Anti-Fraud Positions	Governor's May Revision *(New)*	TOTAL Positions *(if all adopted)*
Audits and Investigations Division (A&I)	**75.0**	**227.0**	**302**
Payment Systems Division (PSD)	**79.0**	**51.0**	**130**
Office of Legal Services (OLS)	**29.0**	**15.0**	**44**
Medi-Cal Fraud Prevention Bureau (MFPB)	**26.0**	**0.0**	**26**
Medi-Cal Managed Care Division (MMCD)	**20.0**	**0.0**	**20**
Administration Division (Admin)	**10.2**	**13.0**	**23.2**
Laboratory Field Services (LFS)	**10.0**	**0.0**	**10**
Medi-Cal Policy Division (MCPD)	**9.0**	**8.0**	**17**
Primary Care and Family Health (PCFH)	**3.0**	**1.0**	**4**
Information Technology Services Division (ITSD)	**3.0**	**0.0**	**3**
TOTALS	**264.2**	**315.0**	**579.2**

I. Error Rate Study/Random Sampling of Claims: **43.5 positions** (29.5 A&I, 11.0 Admin, 2.0 PSD, and 1.0 OLS) to perform an annual Medi-Cal error rate study and ongoing sampling of provider claims. Estimated savings of $**964,000 ($482,000 General Fund)** in 2003-04.

A. Medi-Cal Error Rate Study: Perform initial and follow-up error rate studies that document the amount and type of erroneous Medi-Cal payments, including those due to fraudulent provider billings. This proposal would survey 3,000 beneficiaries and their providers, to help the DHS target anti-fraud resources toward the most cost-effective strategies. The follow-up error rate studies will also be used to evaluate the effectiveness of the Anti-Fraud program.

B. Random Sampling of Prepayment Claims: Perform random audits of 100 provider claims each week before the claims are processed and paid.

C. Assess Graduated Civil Money Penalties: **Trailer bill language** to assess graduated civil money penalties against providers who have received overpayments due to provider non-compliance with billing and accounting requirements. The proposed penalties include $1,000 per occurrence for improper billing after a provider has received a warning for a previous improper billing, and $10,000 per occurrence for fraud. Penalties would be imposed based on DHS billing and accounting findings. **Any penalties collected would be deposited entirely into the General Fund.**

II. Perform Desk Audits: 24 positions in A&I to profile providers, and notify and investigate providers whose claiming patterns fall outside of the norm for their peer group. These desk audits would not reduce site visits, but would allow the DHS to look at more providers than are currently reviewed by existing pre-check write reviews. **Estimated savings of $965,000 ($483,000 General Fund) in budget year**

III. Emerging Fraud Targets Team: 66 two-year limited-term positions (59 A&I, 5 PSD, and 2 OLS) to establish an Emerging Fraud Targets Team. This team would rapidly respond to emerging fraud schemes that involve a large number of beneficiaries or providers, and would follow up quickly on an estimated 960 tips and referrals each year. Substantial savings can be achieved through prompt response to these schemes. However, the DHS indicates that it does not currently have enough positions to quickly respond to all tips, leads, and referrals. **Estimated savings of $3,234,000 ($1,617,000 General Fund) in budget year.**

IV. Expand and Strengthen the Enrollment Process: Estimated savings of $7,851,000 ($3,926,000 General Fund) in the budget year.

A. Expand Statutory Authority to Strengthen Enrollment Process

- Trailer Bill Language to limit physicians to no more than three office locations.
- Trailer Bill Language to make the unlicensed corporate practice of medicine grounds for suspending providers from the Medi-Cal program who are employed or controlled by a lay-person, rather than a physician.
- Trailer Bill Language to require new providers to be subject to a one-year provisional period, during which A&I would monitor and evaluate the provider's claiming patterns.

B. Enrollment/Re-enrollment Staff: 41 positions (40 PSD and 1. OLS) to increase anti-fraud reviews of provider enrollments and re-enrollments. The DHS indicates that 66 current PSD positions are expected to process 20,000 enrollment applications during the current year, with a backlog of 9,000 applications. In addition, re-enrollment notices have recently been mailed to certain providers, which will be evaluated by the existing staff.

C. Redesign Provider Master File: 3 two-year limited-term PSD positions and $3 million technical consulting costs to redesign the provider master file. This would allow the DHS to crosscheck provider information more effectively and expand provider re-enrollment functions in conjunction with the other provider enrollment process proposals.

D. Increase Onsite Reviews for High Risk Providers: 39 A&I positions (including 20 three-year limited term positions) to expand onsite provider pre-enrollment and re-enrollment reviews. The backlog of high-risk enrollment applications without completed site visits is approximately 600, and the number of applications identified as high-risk will increase as a result of the strengthened enrollment process discussed above.

V. Expand and Strengthen Pre-Check Write Review

A. Require Beneficiaries to Sign for Medical Services, Supplies, and Drugs—Trailer Bill Language to require beneficiaries to sign for services, supplies, and drugs received or rejected. Providers would be required to maintain signature receipts as documentation in the event of a DHS audit. Trailer bill language is also proposed to require signatures for prescriptions of drugs and medical supplies and ordering of medical tests.

B. Augment Pre-Check write Process to Increase Reviews— 28 positions in A&I to expand pre-check write reviews. The DHS estimates that this proposal, along with the statutory changes described above, would result in savings of $3,100,000 ($1,550,000 General Fund) in the budget.

VI. Strengthen Family PACT Program Integrity— 9 positions (6 A&I, 1 PCFH, 1 PSD, and 1. OLS) to increase reviews of providers and update automation systems. Estimated savings of $467,000 ($117,000 General Fund) in budget year.

A. Increase Family PACT Reviews—This proposal would increase desk reviews of providers to identify fraud and over utilization. This proposal would also increase onsite reviews of providers to ensure provider adherence to administrative practices and client care standards.

B. Tighten Audit Trail for Family PACT Eligibility—This proposal would update client eligibility and claims adjudication automation systems to increase program controls.

VII. Increase Resources For Quicker Resolution Of Administrative Sanctions

A. Augment Staff— 24 positions (18 in A&I and 6 in OLS) to expedite resolution of administrative sanctions placed on providers. The DHS estimates that these staff and the statutory changes discussed below would result in budget year savings of $694,000 ($347,000 General Fund). This proposal achieves savings by allowing the DHS to obtain reimbursement from providers in a timely manner, while the fraudulent payments are still recoverable.

This staffing request is based on the current backlog of 1,700 providers with administrative sanctions and the anticipated annual increase of 1,300 providers with administrative sanctions imposed as a result of the other anti-fraud efforts in this initiative. The DHS A&I and OLS currently have 3 positions that resolve approximately 40 administrative sanctions each per year.

***B. Statute Changes for Consistent Recovery*—Trailer bill language** to allow the State to recover funds from non-institutional providers 60 days after issuance of a demand for payment. Under existing statute, non-institutional providers are not required to repay the State for fraudulent billings until all appeals have been exhausted. This can delay provider recoveries for many years, and provides little incentive for providers to resolve appeals. The proposed changes would make non-institutional provider statutes consistent with institutional provider statutes.

VIII. Beneficiary Initiatives

***A. Beneficiary Card Replacement*— $4.1 million ($2.0 million General Fund) for system costs to expand its Beneficiary Identification Card (BIC) replacement project to the entire Medi-Cal population at a rate of 10,000 cards per month. Positions from other components of this anti-fraud initiative would be used for BIC replacement activities as needed. Estimated savings of $33,287,000 ($16,196,000 General Fund) in budget year.

***B. Implement Beneficiary Explanation of Medi-Cal Benefits (BEOMB) Letters*— 16 positions in A&I to identify beneficiary over utilization, notify beneficiaries, and confirm that medical supplies were received. The DHS estimates that this proposal would result in savings of $386,000 ($193,000 General Fund) in the budget year.

***C. Focused Beneficiary Frequency Limitations*— 7 positions in A&I to notify beneficiaries who seem to be over utilizing particular services. If medical records and a follow-up visit show that there is no justification for the over utilization, services may be limited for that beneficiary. Trailer bill language is proposed to amend utilization control statute to allow new controls. **Estimated savings of $215,000 ($108,000 General Fund) in budget year.**

IX. Increase Program Support to Address Organizational Changes

A. Regulations Staffing— 4 two-year limited-term positions for regulations development in the Legal Services Division, Office of Regulations. These positions would be responsible for developing regulations necessary to implement this anti-fraud initiative. These positions are necessary to implement this initiative and achieve the anticipated savings.

B. Administrative Support— 10 administrative support positions, including 1 two-year limited term position, to accommodate increased accounting, personnel, and business services workload associated with the 315 total additional positions included in this proposal. The positions include 4 business services positions, 3 accounting positions, 1 budget office position, and 2 personnel positions.

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions:

- **1. Please briefly step through each of the component parts.** (using the hand out charts if helpful)
- **2. Specifically,** where can the state obtain its best investment with respect to allocating staff resources and obtaining savings?
- **3.** Please step through the **DHS' hiring plan** (See Hand Out).
- **4.** Please **discuss each aspect of the proposed Trailer Bill Language.**

Budget Issue: Does the **Subcommittee want to modify the Administration's May Revision proposal in order to send it to Conference? Further, does the Subcommittee want to reject the trailer bill language for purposes of sending it all to the policy committees (likely to have multiple referrals due to its complexities and due process issues).**

B. Department of Developmental Services

COMMUNITY BASED SERVICES

1. Current Year Deficiency Request—May Revision Update

Background—the Regional Centers: The DDS contracts with 21 not-for-profit Regional Centers (RCs) which have designated catchment areas for service coverage throughout the state. The RCs are responsible for providing a series of services, including case management, intake and assessment, community resource development, and individual program planning assistance for consumers. RCs also purchase services for consumers and their families from approved vendors and coordinate consumer services with other public entities.

Background—Deficiency in the Current Year: SB 1070 (Chesbro), Statutes of 2002, provided **an increase of $40 million ($13.7 million General Fund)** above the Budget Act of 2002 to fund the current-year deficiency as identified in the Governor's January budget documents.

As part of the May Revision process, the current year is updated to identify any adjustments (up or down) which may be necessary due to caseload, the utilization of services, and policy modifications. **As a result of this analysis, the Administration is proposing current year changes with the May Revision.**

Governor's May Revision—Additional Deficiency: The DDS is proposing a ***net*** **increase of $44.6 million (increase of $86.6 million General Fund and decrease of $15.7 million in Reimbursements) over the revised current year appropriation.**

As compared to the Budget Act of 2002, the combined revisions (i.e., as contained in SB 1070 (Chesbro), Statutes of 2002 and the May Revision) result in a *net* total increase of $84.6 million (increase of $100.3 million General Fund and a decrease of $15.7 million in Reimbursements).

The DDS states that additional proposed increase net increase of $44.6 million ($86.6 million General Fund) consists of the following key components:

- ***Increase of $46.5 million for the Purchase of Services (POS):*** These additional expenditures are primarily due to updated data which shows that consumers are utilizing more services.
- ***Reduction of $1.9 million for RC Operations:*** The DDS states that the community population estimate was reduced by 1, 440 consumers to reflect updated data. This results in a decrease in RC Operation costs of $1.6 million. In addition, there is a reduction in Health Insurance Portability Accountability Act (HIPPA) functions.

It should be noted that the **$42 million reduction in Reimbursements**, and need for General Fund backfill, is due to:

- **Decrease of $35.9 million (federal Title XX block grant funds) because these funds can only be used for services to families whose income is 200 percent below the poverty level. Since the DDS has no data on family income, this funding cannot be continued in the Regional Center budget.**
- Decrease of $4.9 million (federal Medicaid Waiver Reimbursements) due to the **inability to obtain Waiver enrollment approval (and thus reimbursement) at South Central Los Angeles Regional Center.** The DDS continues to work with them and others to rectify this situation.

Subcommittee Staff Comment: Pursuant to Section 13332.04(a) of the Government Code, the DDS is providing notification to the Legislature of **this additional $44.6 million (increase of $86.6 million General Fund and a decrease of $42 million in Reimbursements) deficiency.**

No action by the Subcommittee is necessary. This proposed deficiency will potentially be addressed in through the deficiency bill process.

Subcommittee Request and Questions: The Subcommittee has requested the DDS to respond to the following questions:

- **1.** Please provide a **brief summary of the current-year deficiency request.**

2. May Revision "Base-Line" Estimate for Regional Centers-Caseload & Utilization

Background-- Purchase of Services (POS): The DDS contracts with 21 not-for-profit Regional Centers (RCs) which have designated catchment areas for service coverage throughout the state. RCs purchase services for consumers and their families from approved vendors when "generic" services are not available or appropriate, and coordinate consumer services with other public entities. The **Purchase Of Services (POS) portion** of the Regional Center budget **accounts for about 80 percent of total expenditures**.

For budget development and allocation purposes, the **POS budget consists of four key categories—Residential Placement, Day Programs, Transportation and Other Services which includes health care, respite, support services and other miscellaneous services.**

The May Revision proposes the following for these service categories over the Governor's January budget:

• Residential Placement	$595.2 million	increase of $11.8 million (total) over January
• Day Programs	$622.5 million	*decrease* of $108 million (total) from January *(mainly due to not transferring rehabilitation services)*
• Other services (respite, support services, health care & others)	$812.9 million	increase of $118 million (total) over January
• Transportation	$176.5 million	*decrease* of $1.1 million (total) from January
Subtotal	**$2.207 billion**	**Net increase of $20.7 million (total)**

Administration's Proposed Cost Containment:

• *Proposal Statewide Standards Savings*	*(-$69.3 million) (total funds)*
• *Revision of Eligibility Definitions*	*(-$2.1 million) (total funds)*
Proposed Adjusted TOTAL	**$2.136 billion (Rounded)**

Background on Regional Center Operations: The RC Operational budget covers the staff who provide the RCs' direct services to consumers and their families, and the organizational functions in which they operate.

Generally, the RCs Operations budget consists of four components—(1) mandated services, (2) support functions, (3) special case add-ons, and (4) non-personnel costs.

Mandated services includes the following: intake and eligibility assessment, case management, clinical support, community services (such as communications and customer service) and fiscal administration (including vendor and consumer custodial payments).

Support functions includes the following: executive and administrative personnel, human resources, internal finance, information systems support, consumer records management and communications and logistics.

Special case add-ons includes the following: items applicable to certain RCs only (such as Foster Grandparents), and items contracted via RC budgets statewide (such as Life Quality Assessments). **Non-personnel costs** includes the following: facilities (rent and/or mortgage), board governance development and facilitation, and all other administrative costs.

The May Revision proposes the following for key items for Regional Center Operations:

• Operations Staffing	$401.535 million (total)	increase of $8 million (total)
• Federal Compliance	$26.2 million (total)	increase of $512,000 (total)
• Other Direct Services	$9.8 million (total)	increase of $3.8 million (total)
• Contracts and Projects	$22.7 million (total)	increase of $766,000 (total)
• Unallocated Reduction	(-$10.6 million)	From Budget Act of 2002 (continuation)
• Intake & Assessment	(-$4.5 million)	From Budget Act of 2002 (continuation)
Subtotal	**$445.3 million**	**Net increase of $13.1 million**

Administration's Proposed Cost Containment:

- *Operations Staffing Reduction* *($10,940,000) (total funds)*

Proposed Adjusted TOTAL **$434.3 million (Rounded)**

Governor's May Revision--Summary: The **May Revision proposes total expenditures of $2.611 billion ($1.778 billion General Fund) which reflects a *net increase of $307.1 million (increase of $233 million General Fund)*, or 13.3 percent, from the revised 2002-03 budget.**

Summary Table of Totals *(with proposed adjustments)*

Community Services Category *(Dollars in Thousands)*	**Revised 2002-03 (Current Year)**	**May Revise 2003-04 (Budget Year)**	**Difference**
RC Operations	$409,687	$434,325	$24,638
Purchase of Services	1,853,346	2,135,792	282,446
Early Intervention Program	20,095	20,150	55
Habilitation Services	21,175	21,175	0
TOTAL Community	**$2,304,303**	**$2,570,117**	**$307,100**

With respect to **caseload**, the May Revision assumes **that 193,100 consumers will receive community based services which assumes an increase of 10,925 consumers over the revised current-year, or a 6 percent increase.**

- ***A. Baseline Adjustments for Population and Service Utilization:*** The May Revision assumes **$76.8 million (total funds) for increased expenditures due to (1) updating of the base using more recent utilization and cost data, and (2) increased population (10,925 estimated new consumers) projections.**

- ***B. Reduction in Title XX Social Services Block Grant Funds:*** The May Revision proposes a reduction of almost **$100 million in federal Title XX Social Services Block Grant funds and therefore, a backfill of $100 million General Fund.** This reduction in the use of federal Title XX Social Services Block Grant funds is that the state recently realized it is unable to use these funds due to federal requirements that say the funds can only be used for services provided to families whose income is 200 percent of federal poverty. Since the DDS has no data on family income, this funding cannot be continued in the Regional Center budget.

- ***C. Community Placement Plan:*** The May Revision provides **(1)** an additional $8.2 million over January based on the Regional Center's most recent survey responses for community placement, **(2)** provides funds of $11.6 million for the "unified CPP" which represents a regional effort (the 3 RCs in the Bay Area Project) in support of the closure of Agnews DC, and **(3)** $700,000 for the assessment and placement of Agnews DC residents into the community settings of non-unified plan Regional Centers.

- ***D. Continues Deferral of Intake and Assessment:*** The omnibus health trailer legislation for the Budget Act of 2002 extended the intake and assessment process for new consumers from 60 days to 120 days for two years. As such, the budget proposes to continue this deferral for another year.

- ***E Suspension of Purchase of Services for Start Up:*** The Budget Act of 2002 suspended funds for the Purchase of Services for the start-up of any new non-Community Plan programs. The budget continues this action.

Subcommittee Request and Questions: The Subcommittee has requested the DDS to respond to the following questions:

- **1. Please provide a brief summary of the baseline adjustment for the Purchase of Services area.**

- **2. Please provide a brief summary of the baseline adjustment for Regional Center Operations.**

Budget Issue: Does the Subcommittee **want to adopt the baseline budget for the Regional Centers?**

3. DDS Proposal Regarding Enhanced Federal Funds From Several Sources— (A) Governor's May Revision, (B) Transportation Vendor Changes, & (C) South Central Los Angeles Regional Center

Background--DDS Efforts to Obtain Increased Federal Funding: Over the course of the past several years, the state has been aggressively pursing receipt of additional federal funds. **From 1999-2000 to 2003-04 the DDS has been able to increase the state's receipt of federal funds for services provided to individuals with developmental disabilities from $508.2 million (1999-2000) to an estimated $961.4 million (2003-04) for an increase of over 89 percent in four years.**

Most notably, receipt of federal funds under the Home and Community-Based Waiver has increased from $283.6 million (1999-2000) to $556.2 million (2003-04), or over 96 percent during this time. The Waiver has allowed the state to conserve General Fund dollars by shifting Medicaid (Medi-Cal) eligible consumers to Waiver services while granting flexibility and assisting the state in complying with the Coffelt Settlement and the Olmstead Decision**. A portion of the additional federal Waiver funds have also been used to enhance quality assurance measures, service monitoring, and several other items.**

Targeted Case Management (TCM) services has shown a more gradual adjustment. Under TCM, case management services are furnished to consumers in order to provide access to needed medical, educational and social services. Persons with developmental disabilities are identified as being a "targeted" group under California's State Medicaid Plan as provided for under federal law.

This TCM approach enables California to draw a federal match for these services, versus using solely General Fund support. Functions allowed to be claimed under TCM include: (1) consumer assessment, (2) development of a specific care plan, (3) referral and related activities to assist the consumer to obtain needed services, and (4) monitoring and follow-up. In general, allowable services are those that include assistance in accessing a medical or other service, but do not include the direct delivery of the underlying service.

Background-- The Home & Community-Based Services Waiver: Under this Waiver, **California can offer services to individuals who would otherwise require the level of care provided in an intermediate care facility for persons with developmental disabilities.** Use of these "waiver services", such as assistance with daily living skills and day program habilitation, **enable people to live in less restrictive environments such as in their home or at a Community Care Facility.**

Background—South Central Los Angeles Regional Center (SCLARC): The federal CMS has not yet certified SCLARC to be included under the federal Home and Community Based Wavier, and as such, the state has not been able to receive federal reimbursement for consumers who would otherwise be eligible. **The issues surrounding the present lack of certification pertain to demonstrating SCLARC's compliance with fiscal operations and accountability. There are absolutely *no issues* regarding the provision of consumer services or quality of services.**

<u>According to the DDS, the loss of federal financial participation due to this lack of approval is (1) $9.9 million for 2002-03, and (2) $13.3 million for 2003-04. As such, the state is having to backfill with General Fund support.</u>

The DDS, DHS and SCLARC have all been diligently working with the federal CMS to demonstrate the fiscal soundness of SCLARC. The state previously provided the federal CMS with fiscal audit information, documentation from the DHS and DDS, as well as other analyses. **However, federal approval is still pending and discussions are ongoing.**

<u>Special Adjustment for Transportation Vendors:</u> Under the Governor's January budget as well as his May Revision, it was assumed that Transportation Vendors **would be receiving a special adjustment of $1.6 million (General Fund) in order to serve as an incentive for completing certain minor billing changes.** With these minor billing changes (different invoicing process), the state can obtain increased federal funds under the Home and Community Based Waiver.

<u>Subcommittee's Prior Action—Adopted Governor's January Proposal:</u> In the April 7th hearing, **the Subcommittee adopted the Governor's January budget proposal which increased the receipt of federal funds by $99.7 million over the current year obtained through a series of program changes, and to obtain an additional $500,000 in federal reimbursements for a total of $100.2 million in additional.** Of the total increased federal funds amount, **$92 million was proposed to be used to backfill for General Fund expenditures in Purchase of Services,** and the remaining amount was to be expended for various purposes as proposed by the Administration and adopted by the Subcommittee.

<u>Governor's May Revision—Targeted Case Management:</u> The May Revision proposes a **reduction of almost $2.3 million in the receipt of federal Targeted Case Management Funds.** As such, the May Revision proposes a General Fund increase of a like amount.

The DDS states that this adjustment is due to the belief that the federal CMS may not be willing to approve California's request for obtaining retroactive reimbursement.

<u>Governor's May Revision—Assumes no Federal Reimbursement for South Central Los Angeles RC:</u> The May Revision also reflects an increase of $4.9 million (General Fund) due to the assumption that South Central Lost Angeles Regional Center will continue its "non-certification" status under the Home and Community Based Wavier.

<u>Subcommittee Staff Recommendation:</u> **<u>First,</u>** with respect to the receipt of Targeted Case Management Funding, **the state should proceed with the request for receipt of retroactivity on the $2.5 million**. The request is reasonable, and the federal CMS has approved retroactive requests before. As such, the state should at least pursue the request until denied by the CMS. **Therefore, it is recommended to continue to assume the January level of *receipt* of federal funding.**

Second, the DDS and DHS need to rectify with the federal CMS any final adjustments that the CMS may require regarding SCLARC. Discussions are continuing and considerable data has been under review by the federal CMS for many months. As such, it is recommended to assume the SCLARC will obtain federal CMS approval and that retroactive federal funds can be obtained. **Therefore it is recommended to adjust the Regional Center estimate by $9.9 million for 2002-03, and $13.3 million for 2003-04 and by increasing the receipt of federal funds and decreasing General Fund support**.

Third, it is recommended **to delete the $1.6 million (General Fund)** that was designated as a special incentive for the Transportation providers. The Transportation providers should be willing to make administrative billing adjustments in order for the state to draw down additional federal funds.

Subcommittee Request and Questions: The Subcommittee has requested the DDS to respond to the following questions:

- **1.** What would have to be done for the DDS to continue to seek the TCM retroactive funds?
- **2.** Are **constructive conversations still continuing with the CMS regarding their review of the SCLARC information that has been presented to them for their review?**

Budget Issue: **Does the Subcommittee want to (1)** maintain the higher January budget assumption of receiving federal funds, **(2)** assume SCLARC obtains federal CMS approval to obtain reimbursements under the federal Home and Community Based Waiver for General Fund savings of $23.2 million (General Fund) across the two-fiscal years, and **(3)** delete the $1.6 million in special incentive funds slated for the Transportation vendors?

4. Governor's May Revision—Reduce Regional Center Operations

Background on Regional Center Operations: The RC Operational budget covers the staff who provide the RCs' direct services to consumers and their families, and the organizational functions in which they operate. **Generally, the RCs Operations budget consists of four components—(1) mandated services, (2) support functions, (3) special case add-ons, and (4) non-personnel costs.**

Mandated services includes the following: intake and eligibility assessment, case management, clinical support, community services (such as communications and customer service) and fiscal administration (including vendor and consumer custodial payments).

Support functions includes the following: executive and administrative personnel, human resources, internal finance, information systems support, consumer records management and communications and logistics.

Special case add-ons includes the following: items applicable to certain RCs only (such as Foster Grandparents), and items contracted via RC budgets statewide (such as Life Quality Assessments). **Non-personnel costs** includes the following: facilities (rent and/or mortgage), board governance development and facilitation, and all other administrative costs.

Governor's May Revision: The May Revision proposes **to increase Regional Center Operations expenditures by a net of $2.1 million (total funds). This adjustment reflects a reduction to Operations of $8.650 million (General Fund). It should be noted that this proposal contains an "offset" of $5.3 million (General Fund) due to an unallocated reduction taken on Regional Center Operations in the mid-1990's during other difficult fiscal times**.

The DDS is proposing trailer bill language which would do the following to make various adjustments to consumer/service coordinator staffing ratios *(implemented as of January 1, 2004):*

- Modify mandated caseload ratios for service coordinators (case managers) from the existing 1 to 62 ratio (service coordinator to consumer) for *all* consumers who have not moved from a DC to the community since April 14, 2003 and in no case is a service coordinator to have an assigned caseload in excess of 79 consumers for more than 60 days. This proposal would sunset as of July 1, 2007.
- Modify mandated caseload ratios for service coordinators from the existing 1 to 45 ratio for consumers who have moved from a DC but have resided in the community for at least 12 months shall receive service coordination as stated above. This proposal would sunset as of July 1, 2007.
- Revise the core staffing allocation formula beginning January 1, 2004 to that funding for one Supervising Counselor would be allocated for every 10 Service Coordinators. This proposal would sunset as of July 1, 2007.
- Revise the ratio for secretarial support so that funding for each secretary is budgeted for every 6 specified professional positions. This proposal would sunset as of July 1, 2007.

Subcommittee Request and Questions: The Subcommittee has requested the DDS to respond to the following questions:

- **1.** Please **describe the proposal** to reduce Regional Center Operations.
- **2.** Please **step through the proposed trailer bill language.**

Budget Issue: Does the **Subcommittee want to modify the proposal?**

5. Other Cost Containment Items for Consideration—Subcommittee Staff Options

Subcommittee Staff Recommendation: In an effort **to identify areas for cost containment which will have less affect on the lives of consumers than implementation of statewide standards, it is recommended to do the following:**

- Freeze the **RC contracted rates for the budget year at the current year levels for savings of $9.3 million (General Fund) for the following services: Transportation, "Look-A-Like Programs, and Supported Living.** (It should be noted that residential rates are already frozen for the budget year in the Governor's May Revision.)

- Freeze **Adult Day Programs average cost increase for the budget year for savings of $9.6 million ($3.1 million General Fund).**

Subcommittee Request and Questions: The Subcommittee has requested the DDS to respond to the following questions:

- **1.** From a technical assistance perspective, what is the DDS' perspective of the above recommendations?

Budget Issue: Does the **Subcommittee want to reduce the RC Purchase of Services appropriation by $12.4 million (General Fund) by freezing contracts as referenced above?**

6. Implement Statewide Standards for the Purchase of Services

Background: The Regional Centers are responsible for providing a series of services, including case management, intake and assessment, community resource development, and individual program planning assistance for consumers. **Regional Centers also purchase services for consumers and their families from approved vendors and coordinate consumer services with other public entities.**

As recognized in the Lanterman Act, differences (to certain degrees) may occur across communities (Regional Center catchment areas) to reflect the individual needs of the consumers, the diversity of the regions which are being served, the availability and types of services overall, access to "generic" services (i.e., services provided by other public agencies which are similar in charter to those provided through a Regional Center), and many other factors.

The DDS, in consultation with the Association of Regional Center Agencies, annually allocates POS funds through a contract process in which each RC receives a base allocation and then subsequent allocations as determined by the DDS. **The allocation of POS funds is primarily based on the previous year's expenditures plus growth which may not be fully reflective of consumers needs in some areas.**

Budget Act of 2002—Unallocated Reduction: In the Budget Act of 2002, **an unallocated reduction of $52 million (General Fund) (one-time only) was enacted for POS in lieu of proceeding with the Administration's proposal to implement statewide standards for POS.**

Governor's January Budget: The Governor's January budget assumed **a savings of $100 million (General Fund) from the enactment of legislation to implement statewide purchase of services standards. The proposal did not articulate any assumptions as to how the $100 million (General Fund) in savings is derived.**

Instead, the proposed language granted very broad authority to the DDS to: (1) prohibit any consumer services or supports by type (such as Respite), **(2)** limit the type, duration, scope, location, amount, or intensity of *any* services and supports provided to consumers through the purchase of services by the Regional Centers, and **(3)** impose payment reductions and closure days on categories of vendors in order to insure that Regional Centers stay within their budgeted appropriation level.

In addition, the language explicitly stated that consumers may *not* appeal a change in their services or supports if (1) the type of service or support has been prohibited through the actions of the DDS, or **(2)** the individual service or support has been reduced at the direction of the DDS in order to ensure that Regional Centers stay within their budgeted appropriation level.

The language also expressed that it is not the Legislature's intent to endanger a consumer's health or safety, nor place a consumer in a more restrictive setting in violation of the Olmstead Decision (1999, 527 U.S. 581). However, it is unclear how the DDS and RCs are to monitor this in order to assure something inappropriate does not occur.

Prior Subcommittee Hearing: In two prior hearings, the Subcommittee discussed various concerns regarding implementation of the Governor's proposed statewide standards. This information was taken under advisement.

Governor's May Revision: The May Revision continues to assume implementation of the statewide standards **but it assumes a January 1, 2004 implementation date and therefore, an adjusted savings level. The May Revision assumes savings of $69.3 million ($50.2 million General Fund) in the budget year, with annualized savings of $138.5 million ($100 million General Fund).**

Since the last Subcommittee hearing with the DDS, the Administration has released draft regulations as to how the proposed statewide standards would in actuality, be applied in to the receipt of consumer services. **These draft regulations have raised considerable concern and clearly show that some existing services would be eliminated and Adult Day Programs and other service categories would have rates reduced, among other adjustments.**

<u>Subcommittee Request and Questions:</u> The Subcommittee has requested the DDS to respond to the following questions:

- **1.** Please **describe in detail the *key aspects* contained in the Administration's draft regulations.**
- **2.** What public comment has the DDS received regarding them?

<u>Budget Issue:</u> Does the Subcommittee **want to modify the May Revision proposal?**

LAST PAGE OF AGENDA